
HOUSE BILL No. 1199

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-13; IC 5-8-5.

Synopsis: Vacancies caused by death. Establishes a procedure for any person to give notice of the death of an elective or a judicial officer to begin the process of filling the vacancy in office. Changes the time limit for holding a meeting or caucus to fill a vacancy. Provides that the person or body required to fill a vacancy due to the death of the officer may do so before notice is given if the person or body is aware of the vacancy.

Effective: July 1, 2002.

Dillon

January 10, 2002, read first time and referred to Committee on Rules and Legislative Procedures.

C
o
p
y



Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1199

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-13-4-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) **This section applies to a**
3 **vacancy that occurs ~~other than by resignation~~, in a state office other**
4 **than governor, lieutenant governor, or a judicial office.**

5 **(b) If a state officer wants to resign from office, the state officer**
6 **must resign as provided in IC 5-8-3.5.**

7 **(c) A vacancy that occurs in a state office because of the death**
8 **of the state officer may be certified to the governor under IC 5-8-5.**

9 **(d) A vacancy that occurs in a state office other than by**
10 **resignation or death shall be certified to the governor by the circuit**
11 **court clerk of the county in which the officer resided.**

12 **(b) (e) The governor shall fill a vacancy in a state office ~~other than~~**
13 **governor, lieutenant governor, or a judicial office shall be filled by**
14 **appointment by the governor. by appointment. The governor may fill**
15 **a vacancy as provided by law as soon as the governor becomes**
16 **aware of the vacancy.**

17 **(f) The person who is appointed by the governor holds office for**



C
o
p
y

the remainder of the unexpired term and until a successor is elected and qualified.

SECTION 2. IC 3-13-5-1, AS AMENDED BY P.L.26-2000, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) A vacancy in a legislative office shall be filled by a caucus comprised of the precinct committeemen from the senate or house district where the vacancy exists who represent the same political party that elected or selected the person who held the vacated seat.

(b) Not later than thirty (30) days after the vacancy occurs (or as provided in ~~subsection~~ **subsections (c) and (d)**), the caucus shall meet and select a person to fill the vacancy by a majority vote of those casting a vote for a candidate, including vice committeemen eligible to vote as a proxy under section 5 of this chapter.

(c) A state chairman may give notice of a caucus before the time specified under subsection (b) if a vacancy will exist because the official has:

(1) submitted a written resignation under IC 5-8-3.5 that has not yet taken effect; or

(2) been elected to another office.

(d) If a vacancy in a legislative office exists because of the death of the legislator, the caucus shall meet and select an individual to fill the vacancy not later than thirty (30) days after the state chairman receives a notice of the death from the secretary of state under IC 5-8-5. If the state chairman is aware of the legislator's death before receiving a notice of the death from the secretary of state, the state chairman may hold the caucus before receiving a notice of the death. The state chairman shall keep the notice of the death with the records of the caucus.

~~(d)~~ (e) Notwithstanding IC 5-8-4, a person may not withdraw the person's resignation after the resignation has been accepted by the person authorized to accept the resignation less than seventy-two (72) hours before the announced starting time of the caucus under this chapter.

~~(e)~~ (f) The person selected must reside in the district where the vacancy occurred.

SECTION 3. IC 3-13-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. (a) **As used in this section, "judge" refers to a judge of a circuit, superior, probate, or county court.**

(b) If a judge wants to resign from office, the judge must resign as provided in IC 5-8-3.5.

C
o
p
y



(c) A vacancy that occurs by the death of a judge may be certified to the governor under IC 5-8-5.

(d) A vacancy that occurs other than by resignation in the office or death of a judge of a circuit, superior, probate, or county court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(e) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election and qualified;

whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(f) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-5-5.1-37.1.

(2) IC 33-5-5.1-41.1.

(3) IC 33-5-29.5-39.

(4) IC 33-5-40-44.

The person who is appointed holds office for the remainder of the unexpired term.

(g) Subject to subsections (e) and (f), the governor may fill a vacancy as provided by law as soon as the governor becomes aware of the vacancy.

SECTION 4. IC 3-13-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) **This section applies to a vacancy in a county elected office (other than county council) not covered by section 1 of this chapter.**

(b) A vacancy shall be filled by the board of commissioners of the county at a regular or special meeting. The county auditor shall give notice of the meeting. **Except as provided in subsection (d), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:**

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each commissioner at least ten



C
o
p
y

(10) days before the meeting.

~~(b)~~ (c) Selections made under this section (or under IC 3-2-10-3(a) before its repeal on March 4, 1986) are appointments pro tempore for the purposes of Article 2, Section 11 of the Constitution of the State of Indiana.

(d) If a vacancy exists because of the death of an elected county officer, the board of commissioners shall meet and select an individual to fill the vacancy not later than thirty (30) days after the board of commissioners receives a notice of the death under IC 5-8-5. If the board of commissioners is aware of the county officer's death before receiving a notice of the death, the board of commissioners may hold the meeting before receiving the notice of the death.

SECTION 5. IC 3-13-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) This section applies to a vacancy in a county council not covered by section 1 of this chapter.

(b) A vacancy shall be filled by a majority of the remaining members of the council at a regular or special meeting. The county auditor shall give notice of the meeting. ~~which~~ **Except as provided in subsection (c), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:**

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) If a vacancy exists because of the death of a county council member, the county council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the county auditor receives a notice of the death under IC 5-8-5. If the county auditor is aware of the county council member's death before receiving a notice of the death, the county council may hold the meeting before the county auditor receives the notice of the death.

SECTION 6. IC 3-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) As used in this section, "judge" refers to a judge of a city court.

(b) If a judge wishes to resign from office, the judge must resign as provided in IC 5-8-3.5.

(c) A vacancy that occurs by the death of a judge may be certified to the governor under IC 5-8-5.

(d) A vacancy that occurs other than by resignation ~~in the office or death of a judge of a city court~~ shall be certified to the governor by the



C
O
P
Y

1 circuit court clerk of the county in which the judge resided.

2 ~~(b)~~ (e) A vacancy in the office of judge of a city court shall be filled
3 by the governor. **The governor may fill a vacancy as provided by**
4 **law as soon as the governor becomes aware of the vacancy.**

5 SECTION 7. IC 3-13-8-3 IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) **This section applies to a**
7 **vacancy in the office of mayor of a first class city not covered by**
8 **section 1 of this chapter.**

9 **(b) The vacancy shall be filled by the city-county council at a**
10 **regular or special meeting. The city clerk shall give notice of the**
11 **meeting. ~~which~~ Except as provided in subsection (d), the meeting**
12 **shall be held ~~within~~ not later than thirty (30) days after the vacancy**
13 **occurs. The notice must:**

- 14 (1) be in writing;
15 (2) state the purpose of the meeting;
16 (3) state the date, time, and place of the meeting; and
17 (4) be sent by first class mail to each council member at least ten
18 (10) days before the meeting.

19 ~~(b)~~ (c) The city clerk shall preside at the meeting but may not vote
20 unless there is a tie vote among the members of the council. The
21 council must appoint one (1) of its own members to the office. Until the
22 vacancy is filled, the president of the council shall serve as acting
23 mayor.

24 **(d) If a vacancy exists because of the death of the mayor, the**
25 **council shall meet and select an individual to fill the vacancy not**
26 **later than thirty (30) days after the city clerk receives a notice of**
27 **the death under IC 5-8-5. If the city clerk is aware of the mayor's**
28 **death before receiving the notice of the death, the council may hold**
29 **the meeting before the city clerk receives the notice of the death.**

30 SECTION 8. IC 3-13-8-4 IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) **This section applies to a**
32 **vacancy in the city-county council of a first class city not covered by**
33 **section 1 of this chapter.**

34 **(b) A vacancy shall be filled by a majority of the remaining**
35 **members of the council at a regular or special meeting. The city clerk**
36 **shall give notice of the meeting. ~~which~~ Except as provided in**
37 **subsection (c), the meeting shall be held ~~within~~ not later than thirty**
38 **(30) days after the vacancy occurs. The notice must:**

- 39 (1) be in writing;
40 (2) state the purpose of the meeting;
41 (3) state the date, time, and place of the meeting; and
42 (4) be sent by first class mail to each council member at least ten

C
o
p
y



(10) days before the meeting.

(c) If a vacancy exists because of the death of a council member, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk receives a notice of the death under IC 5-8-5. If the city clerk is aware of the council member's death before receiving a notice of the death, the council may hold the meeting before the city clerk receives the notice of the death.

~~(b)~~ **(d)** The appointed member serves until a successor is elected and qualified at the next municipal or general election, whichever occurs first. The successor serves from noon January 1 following that election to noon January 1 following the next municipal election, as provided in IC 36-3-4-2. The persons appointed and elected must be resident voters in the district where the vacancy occurred, unless the vacancy occurred in an at large seat.

SECTION 9. IC 3-13-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) **This section applies to a vacancy in the office of mayor of a second class city not covered by section 1 of this chapter.**

(b) A vacancy shall be filled as follows:

(1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.

(2) If the city does not have a deputy mayor, the city controller assumes the office for the remainder of the unexpired term.

(3) If the city does not have a deputy mayor and the office of city controller is vacant, the common council shall fill the vacancy at a regular or special meeting.

~~(b)~~ **(c)** The city clerk shall give notice of the meeting required under subsection (a)(3). ~~which~~ **Except as provided in subsection (d), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:**

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) If a vacancy exists because of the death of the mayor, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk receives a notice of the death under IC 5-8-5. If the city clerk is aware of the mayor's death before receiving a notice of the death, the council may hold the meeting before the city clerk receives the notice of the death.



C
O
P
Y

(c) (e) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor.

SECTION 10. IC 3-13-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) **This section applies to** a vacancy in the common council of a second class city not covered by section 1 of this chapter.

(b) **A vacancy** shall be filled by the remaining members of the council at a regular or special meeting. The city clerk shall give notice of the meeting. ~~which~~ **Except as provided in subsection (c), the meeting shall be held within not later than** thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(c) **If a vacancy exists because of the death of a council member, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk receives a notice of the death under IC 5-8-5. If the city clerk is aware of the council member's death before receiving the notice of the death, the council may hold the meeting before the city clerk receives the notice of the death.**

SECTION 11. IC 3-13-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 8. (a) **This section applies to** a vacancy in the office of mayor of a third class city not covered by section 1 of this chapter.

(b) **A vacancy** shall be filled as follows:

- (1) If the city has a deputy mayor, the deputy mayor assumes the office for the remainder of the unexpired term.
- (2) If the city does not have a deputy mayor, the common council shall fill the vacancy at a regular or special meeting.

(b) (c) The city clerk-treasurer shall give notice of the meeting required under subsection (a)(2). ~~which~~ **Except as provided in subsection (d), the meeting shall be held within not later than** thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) **If a vacancy exists because of the death of the mayor, the**

C
o
p
y



council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk-treasurer receives a notice of the death under IC 5-8-5. If the city clerk-treasurer is aware of the mayor's death before receiving a notice of the death, the council may hold the meeting before the city clerk-treasurer receives the notice of the death.

~~(c)~~ (e) Until the vacancy is filled, the council shall designate one (1) of its members to serve as acting mayor.

SECTION 12. IC 3-13-8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10. (a) **This section applies to** a vacancy in the common council of a third class city not covered by section 1 of this chapter.

(b) A vacancy shall be filled by the remaining members of the council at a regular or special meeting. The city executive may break any tie vote.

~~(b)~~ (c) The city clerk-treasurer shall give notice of the meeting. ~~which~~ **Except as provided in subsection (d), the meeting** shall be held ~~within not later than~~ thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(d) If a vacancy exists because of the death of a council member, the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the city clerk-treasurer receives a notice of the death under IC 5-8-5. If the city clerk-treasurer is aware of the council member's death before receiving a notice of the death, the council may hold the meeting before the city clerk-treasurer receives the notice of the death.

SECTION 13. IC 3-13-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) **This section applies to** a vacancy in the office of judge of a town court that is:

- (1) not covered by section 1 of this chapter; or
- (2) covered by section 1 of this chapter, but ~~exists~~ **existing** after the thirtieth day after the vacancy occurs.

(b) A vacancy shall be filled by the town council at a regular or special meeting.

~~(b)~~ (c) The town clerk-treasurer shall give notice of the meeting. ~~which~~ **Except as provided in subsection (e) or (f), the meeting** shall be held:

C
O
P
Y



- (1) ~~within~~ **not later than** thirty (30) days after the vacancy occurs if the vacancy is not covered by section 1 of this chapter; or
- (2) ~~within~~ **not later than** sixty (60) days after the vacancy occurs if the vacancy **is covered by section 1 of this chapter and** exists for more than thirty (30) days.

~~(c)~~ (d) The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(e) **Notwithstanding subsection (c), if a vacancy:**

- (1) **is not covered by section 1 of this chapter; and**
- (2) **exists because of the death of the judge;**

the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the town clerk-treasurer receives a notice of the death under IC 5-8-5. If the town clerk-treasurer is aware of the judge's death before receiving a notice of the death, the council may hold the meeting before the town clerk-treasurer receives the notice of the death.

(f) **Notwithstanding subsection (c), if a vacancy:**

- (1) **is covered by section 1 of this chapter;**
- (2) **exists because of the death of the judge; and**
- (3) **exists for more than thirty (30) days;**

the council shall meet and select an individual to fill the vacancy not later than sixty (60) days after the town clerk-treasurer receives a notice of the death under IC 5-8-5. If the town clerk-treasurer is aware of the judge's death before receiving a notice of the death, the council may hold the meeting before the town clerk-treasurer receives the notice of the death.

SECTION 14. IC 3-13-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) **This section applies to** a vacancy in the office of town clerk-treasurer:

- (1) not covered by section 1 of this chapter; or
- (2) covered by section 1 of this chapter, but existing after the thirtieth day after the vacancy occurs.

(b) **A vacancy** shall be filled by the town council at a regular or special meeting.

~~(b)~~ (c) The president of the town council shall give notice of the meeting. ~~which~~ **Except as provided in subsection (e) or (f), the meeting shall be held:**

- (1) ~~within~~ **not later than** thirty (30) days after the vacancy occurs

C
o
p
y



if the vacancy is not covered by section 1 of this chapter; or
 (2) ~~within not later than~~ sixty (60) days after the vacancy occurs
 if the vacancy **is covered by section 1 of this chapter and** exists
 for more than thirty (30) days.

~~(c)~~ (d) The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten
 (10) days before the meeting.

(e) **Notwithstanding subsection (c), if a vacancy:**

(1) **is not covered by section 1 of this chapter; and**

(2) **exists because of the death of the town clerk-treasurer;**

**the council shall meet and select an individual to fill the vacancy
 not later than thirty (30) days after the president of the town
 council receives a notice of the death under IC 5-8-5. If the
 president of the town council is aware of the town clerk-treasurer's
 death before receiving a notice of the death, the council may hold
 the meeting before the president of the town council receives the
 notice of the death.**

(f) **Notwithstanding subsection (c), if a vacancy:**

(1) **is covered by section 1 of this chapter;**

(2) **exists because of the death of the town clerk-treasurer;
 and**

(3) **exists for more than thirty (30) days;**

**the council shall meet and select an individual to fill the vacancy
 not later than sixty (60) days after the president of the town council
 receives a notice of the death under IC 5-8-5. If the president of the
 town council is aware of the town clerk-treasurer's death before
 receiving a notice of the death, the council may hold the meeting
 before the president of the town council receives the notice of the
 death.**

SECTION 15. IC 3-13-9-4 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) **This section
 applies to** a vacancy in the town council:

(1) not covered by section 1 of this chapter; or

(2) covered by section 1 of this chapter, but existing after the
 thirtieth day after the vacancy occurs.

(b) **The vacancy** shall be filled by the remaining members of the
 council at a regular or special meeting.

~~(b)~~ (c) The town clerk-treasurer shall give notice of the meeting.
~~which~~ **Except as provided in subsection (e) or (f), the meeting shall**



C
O
P
Y

be held:

- (1) ~~within not later than~~ thirty (30) days after the vacancy occurs if the vacancy is not covered by section 1 of this chapter; or
- (2) ~~within not later than~~ sixty (60) days after the vacancy occurs if the vacancy **is covered by section 1 of this chapter and** exists for more than thirty (30) days.

(~~c~~) (d) The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each council member at least ten (10) days before the meeting.

(e) Notwithstanding subsection (c), if a vacancy:

- (1) **is not covered by section 1 of this chapter; and**
- (2) **exists because of the death of a member of the town council;**

the council shall meet and select an individual to fill the vacancy not later than thirty (30) days after the town clerk-treasurer receives a notice of the death under IC 5-8-5. If the town clerk-treasurer is aware of the town council member's death before receiving a notice of the death, the council may hold the meeting before the town clerk-treasurer receives the notice of the death.

(f) Notwithstanding subsection (c), if a vacancy:

- (1) **is covered by section 1 of this chapter;**
- (2) **exists because of the death of a member of the town council; and**
- (3) **exists for more than thirty (30) days;**

the council shall meet and select an individual to fill the vacancy not later than sixty (60) days after the town clerk-treasurer receives a notice of the death under IC 5-8-5. If the town clerk-treasurer is aware of the town council member's death before receiving a notice of the death, the council may hold the meeting before the town clerk-treasurer receives the notice of the death.

SECTION 16. IC 3-13-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) **This section applies to** a vacancy in the office of township trustee not covered by section 1 of this chapter.

(b) **A vacancy** shall be filled by the board of commissioners of the county at a regular or special meeting. The county auditor shall give notice of the meeting. ~~which~~ **Except as provided in subsection (c), the meeting shall be held within not later than** thirty (30) days after the vacancy occurs. The notice must:



- (1) be in writing;
- (2) state the purpose of the meeting;
- (3) state the date, time, and place of the meeting; and
- (4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

(c) If the vacancy exists because of the death of the township trustee, the board of commissioners shall meet and select an individual to fill the vacancy not later than thirty (30) days after the county auditor receives a notice of the death under IC 5-8-5. If the county auditor is aware of the township trustee's death before receiving a notice of the death, the board of commissioners may hold the meeting before the county auditor receives the notice of the death.

SECTION 17. IC 3-13-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. **(a) This section applies to** a vacancy in the office of township assessor not covered by section 1 of this chapter.

(b) A vacancy shall be filled by the county assessor, subject to the approval of the state board of tax commissioners. **Except as provided in subsection (c),** the county assessor shall make the appointment ~~within~~ **not later than** thirty (30) days after the vacancy occurs. If the vacancy occurred because the elected township assessor failed to qualify or was removed, the person who is appointed must be of the same political party.

(c) If a vacancy exists because of the death of the township assessor, the county assessor shall make the appointment required under subsection (b) not later than thirty (30) days after the county assessor receives a notice of the death under IC 5-8-5. If the county assessor is aware of the township assessor's death before receiving a notice of the death, the county assessor may make the appointment before receiving the notice of the death.

SECTION 18. IC 3-13-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. **(a) This section applies to** a vacancy on the township board of a township not covered by section 1 of this chapter.

(b) A vacancy shall be filled by the board of commissioners of the county at a regular or special meeting. The county auditor shall give notice of the meeting, ~~which~~ **Except as provided in subsection (c), the meeting shall be held within** ~~not later than~~ **not later than** thirty (30) days after the vacancy occurs. The notice must:

- (1) be in writing;
- (2) state the purpose of the meeting;

C
o
p
y



(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each commissioner at least ten (10) days before the meeting.

(c) If a vacancy exists because of the death of the township board member, the meeting required under subsection (a) shall be held not later than thirty (30) days after the county auditor receives a notice of the death under IC 5-8-5. If the county auditor is aware of the township board member's death before receiving a notice of the death, the board of commissioners may hold the meeting before the county auditor receives the notice of the death.

SECTION 19. IC 3-13-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. **(a) This section applies to** a vacancy in the office of judge of a small claims court or small claims court constable not covered by section 1 of this chapter.

(b) A vacancy shall be filled by the township board at a regular or special meeting. The chairman of the township board shall give notice of the meeting. ~~which~~ **Except as provided in subsection (c), the meeting shall be held within not later than thirty (30) days after the vacancy occurs. The notice must:**

(1) be in writing;

(2) state the purpose of the meeting;

(3) state the date, time, and place of the meeting; and

(4) be sent by first class mail to each board member at least ten (10) days before the meeting.

(c) If a vacancy exists because of the death of a judge or constable, the meeting required under subsection (b) shall be held not later than thirty (30) days after the chairman of the township board receives a notice of the death under IC 5-8-5. If the chairman of the township board is aware of the judge's or constable's death before receiving a notice of the death, the township board may hold the meeting before the chairman of the township board receives the notice of the death.

SECTION 20. IC 3-13-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) Except as provided in ~~subsection~~ **subsections (b) and (e)**, not later than ten (10) days after a vacancy occurs in an office subject to this chapter, the county chairman:

(1) of the county in which the greatest percentage of the population of the election district of the office is located; and

(2) of the same political party that elected or selected the official who vacated the office;

shall give notice of a caucus to all eligible precinct committeemen.

C
o
p
y



1 (b) A county chairman may give notice of a caucus before the time
 2 specified under subsection (a) if a vacancy will exist because the
 3 official has:

- 4 (1) submitted a written resignation under IC 5-8-3.5; or
 5 (2) been elected to another office.

6 (c) Notwithstanding IC 5-8-4, a person may not withdraw the
 7 person's resignation after the resignation has been accepted by the
 8 person authorized to accept the resignation less than seventy-two (72)
 9 hours before the announced starting time of a caucus under this section.

10 (d) **Except as provided in subsection (e)**, a caucus under this
 11 section shall be held after giving notice to caucus members under
 12 section 4 of this chapter and not later than thirty (30) days after the
 13 vacancy occurs.

14 (e) **If a vacancy exists in an office because of the death of the**
 15 **official, the caucus shall meet and select an individual to fill the**
 16 **vacancy not later than thirty (30) days after the county chairman**
 17 **receives a notice of the death under IC 5-8-5. If the county**
 18 **chairman is aware of the official's death before receiving a notice**
 19 **of the death, the caucus may meet before the county chairman**
 20 **receives the notice of the death. The county chairman shall give**
 21 **notice to caucus members under section 4 of this chapter. The**
 22 **county chairman shall keep the notice of the death with the records**
 23 **of the caucus.**

24 SECTION 21. IC 5-8-5 IS ADDED TO THE INDIANA CODE AS
 25 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2002]:

27 **Chapter 5. Notice of the Death of an Officeholder**

28 **Sec. 1. This chapter applies when a vacancy must be filled**
 29 **under:**

- 30 (1) IC 3-13-4;
 31 (2) IC 3-13-5;
 32 (3) IC 3-13-6;
 33 (4) IC 3-13-7;
 34 (5) IC 3-13-8;
 35 (6) IC 3-13-9;
 36 (7) IC 3-13-10; or
 37 (8) IC 3-13-11;

38 **due to the death of an elective or a judicial officer.**

39 **Sec. 2. As used in this chapter, "officeholder" refers to an**
 40 **elective or a judicial officer.**

41 **Sec. 3. (a) Any person who knows of the death of an officeholder**
 42 **may certify the death to the following:**

C
o
p
y



(1) The governor, in the case of the death of any of the following:

(A) An individual who holds a state office (as defined in IC 3-5-2-48).

(B) An individual who is a judge of a circuit, superior, probate, county, or city court.

(2) The secretary of state, in the case of the death of an individual who holds a legislative office.

(3) The circuit court clerk of the county in which the officeholder resided, in the case of the death of an officeholder of a county, city, town, or township not covered under subdivision (1).

(b) A person who certifies the death of an officeholder shall:

(1) state the information the person has to believe the officeholder has died; and

(2) certify, under the penalties for perjury, that to the best of the person's knowledge and belief, the information stated is true.

Sec. 4. When the governor:

(1) obtains information concerning the death of an individual who:

(A) holds a state office (as defined in IC 3-5-2-48); or

(B) is a judge of a circuit, superior, probate, county, or city court; and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the governor shall fill the vacancy as provided by law.

Sec. 5. (a) When the secretary of state:

(1) obtains information concerning the death of an individual who holds a legislative office; and

(2) is reasonably satisfied that the information described in subdivision (1) is true;

the secretary of state shall give notice of the death to the state chairman of the political party that elected or selected the deceased individual to the legislative office.

(b) The secretary of state shall give the notice required by subsection (a) not later than seventy-two (72) hours after the requirements of subsection (a)(1) and (a)(2) are satisfied.

Sec. 6. (a) When a circuit court clerk:

(1) obtains information concerning the death of an officeholder of a county, city, town, or township not subject to section 3 of this chapter; and

C
o
p
y



1 (2) is reasonably satisfied that the information described in
2 subdivision (1) is true;
3 the circuit court clerk shall give notice of the death to the person
4 described in subsection (b).

5 (b) The circuit court clerk shall give the notice required by
6 subsection (a) to:

7 (1) the person who must give notice of any meeting or caucus
8 required to fill the vacancy caused by the death; or

9 (2) if no meeting or caucus is required to fill the vacancy, the
10 person who has the power to fill the vacancy.

11 (c) The secretary of state shall give the notice required by
12 subsection (a) not later than seventy-two (72) hours after the
13 requirements of subsection (a)(1) and (a)(2) are satisfied.

C
o
p
y

